

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Money Transmitter License
3 of:

No. 11F-BD001-SBD

4 **IPP OF AMERICA, INC. AND RONALD**
5 **AVERETT, PRESIDENT**
330 Passaic Avenue, Suite 100
Fairfield, New Jersey 07004

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

6 Respondents.

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order
9 pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137 and 6-1209.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
15 for which review is sought in accordance with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to
23 allow time to arrange the accommodations. If accommodations are required, call the Office of
24 Administrative Hearings at (602) 542-9826.

25 ...

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1 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
2 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled
3 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
4 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
5 Department will be present (the "Department Representative"). Please note that in requesting an
6 Informal Settlement Conference, Respondents waive any right to object to the participation of the
7 Department Representative in the final administrative decision of this matter, if it is not settled. In
8 addition, any written or oral statement made by Respondents at such informal settlement conference,
9 including written documentation created or expressed solely for purposes of settlement negotiations,
10 are inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules
11 regarding informal settlement conferences.) Conversely, any written or oral statement made by
12 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
13 Department in any subsequent hearing.

14 If Respondents do not request a hearing, this Order shall become final. If Respondents
15 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
16 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
17 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
18 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
19 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-
20 132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-1210; (4) an
21 order to pay restitution of any fees earned in violation of A.R.S. §§ 6-1201, *et seq.*, pursuant to
22 A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the
23 enforcement of statutes and rules regulating money transmitters pursuant to A.R.S. §§ 6-123 and 6-
24 131.

25 FINDINGS OF FACT

- 26 1. Respondent IPP of America, Inc. ("IPP") is a New Jersey corporation authorized to

1 transact business in Arizona as a money transmitter, license number MT 0907659, within the
2 meaning of A.R.S. §§ 6-1201, *et seq.* The nature of IPP's business is that of a money transmitter
3 within the meaning of A.R.S. § 6-1201(11).

4 2. Respondent Ronald Averett ("Mr. Averett") is the President of IPP and is authorized
5 to transact business in Arizona as a money transmitter within the meaning of A.R.S. §§ 6-1201, *et*
6 *seq.*

7 3. An examination of IPP, conducted by the Department from December 15 to
8 December 17, 2009, and examinations of IPP's authorized delegates conducted on December 23,
9 2009, revealed that Respondents:

10 a. Failed to provide their authorized delegates with operating policies and
11 procedures sufficient to permit compliance by the delegate with the provisions of Title 13, Chapter
12 23, Title 6, Chapter 12, and all of the applicable administrative rules; specifically:

13 i. The "Payment Center Policies and Procedures" provided to the
14 authorized delegates does not adequately explain the customer
15 identification data that is required to be obtained for transactions of
16 \$1,000.00 or more. Specifically, there is no mention of the
17 requirement to obtain the customer's occupation and signature.
18 Respondents' "Payment Center Policies and Procedures" also limits
19 transactions to a maximum amount of \$500.00 (2/07) and \$999.00
20 (11/09). The policies are not being followed, as many transactions
21 exceed the limit imposed by the policy. In October of 2008 alone,
22 there were 32 transactions of \$500.00 or more; and

23 ii. Respondents Failed to correct this violation from their previous
24 examination;

25 b. Failed to keep adequate records of customers' identities for each transaction
26 involving the transmission of money in an amount of one thousand dollars (\$1,000.00) or more as

1 required by Title 6, Chapter 12; specifically:

- 2 i. Respondents and their authorized delegates failed to record the
3 customers' occupation and signature for all transactions in the amount
4 of \$1,000.00 or more. Even though Respondents have an adequate
5 "Transaction Record Keeping Form" and procedures for review,
6 Respondents are not ensuring that the form is completed and that the
7 required customer identification information is recorded. Three
8 transactions were in an amount of \$1,000.00 or more. An additional
9 seven occurrences involved two transactions in each instance that were
10 conducted at the same time, location, and for the same account totaling
11 \$1,000.00 or more. For each of the ten transactions Respondents and
12 their authorized delegate failed to record the customer's occupation.
13 For nine of the transactions, Respondents and their authorized delegate
14 failed to obtain the customer's signature. Respondents have current
15 "Payment Center Policies and Procedures" that restrict transactions to
16 a maximum amount of \$500.00 (2/07) and \$999.00 (11/09); and
17 ii. The policies are not being followed. Respondents' AML personnel
18 receive a "duplicates report" that shows single and multiple payments
19 which are in the amount of \$1,000.00 or more to the same account in a
20 month. Even though many of these payments exceed the written
21 policy limit, it does not appear that corrective action was taken to
22 promote compliance with the policy. In addition, as part of the review
23 process for these transactions, the transaction data and documents are
24 also reviewed. The lack of a signature and occupation should have
25 become apparent; however, there is no indication that any corrective
26 action was taken; and

1 c. Failed to create records that reflect the provision of updated operating policies
2 and procedures pursuant to A.R.S. § 6-1208, subsection B and of instruction that promotes
3 compliance with this chapter, Title 13, Chapter 23 and 31 United States Code section 5318,
4 including the identification of the provider and the material and instruction that were provided;
5 specifically:

6 i. The training conducted does not adequately cover the customer
7 identification requirements relating to transactions of \$1,000.00 or
8 more; and

9 ii. Respondents failed to correct this violation from the previous
10 examination.

11 4. These Findings of Fact shall also serve as Conclusions of Law.

12 CONCLUSIONS OF LAW

13 1. Pursuant to A.R.S. §§ 6-1201, *et seq.*, the Superintendent has the authority and the
14 duty to regulate all persons engaged in the money transmitter business and with the enforcement of
15 statutes, rules, and regulations relating to money transmitters.

16 2. By the conduct, set forth above, IPP and Mr. Averett violated the following:

17 a. A.R.S. § 6-1208(B), by failing to provide their authorized delegates with
18 operating policies and procedures sufficient to permit compliance by the
19 delegate with the provisions of Title 13, Chapter 23, Title 6, Chapter 12, and
20 all of the applicable administrative rules;

21 b. A.R.S. § 6-1241(E), by failing to keep adequate records of customers'
22 identities as required by Title 6, Chapter 12 as it relates to transactions of one
23 thousand dollars (\$1,000.00) or more; and

24 c. A.R.S. § 6-1241(G), by failing to create records that reflect the provision of
25 updated operating policies and procedures pursuant to A.R.S. § 6-1208,
26 subsection B and of instruction that promotes compliance with this chapter,

1 Title 13, Chapter 23 and 31 United States Code section 5318, including the
2 identification of the provider and the material and instruction that were
3 provided.

4 3. The violations, set forth above, constitute grounds for: (1) the issuance of an order
5 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
6 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
7 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
8 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
9 suspension or revocation of Respondents' license pursuant to A.R.S. § 6-1210; (4) an order to pay
10 restitution of any fees earned in violation of A.R.S. §§ 6-1201, *et seq.*, pursuant to A.R.S. §§ 6-
11 131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement
12 of statutes and rules regulating money transmitters pursuant to A.R.S. §§ 6-123 and 6-131.

13 ORDER

14 1. IPP of America, Inc. and Mr. Averett shall immediately stop the violations set forth
15 above in the Findings of Fact and Conclusions of Law. Respondents:

- 16 a. Shall provide their authorized delegates with operating policies and
17 procedures sufficient to permit compliance by the delegate with the provisions
18 of Title 13, Chapter 23, Title 6, Chapter 12 and all of the applicable
19 administrative rules within sixty (60) days;
- 20 b. Shall keep adequate records of customers' identities as required by Title 6,
21 Chapter 12 as it relates to transactions of one thousand dollars (\$1,000.00) or
22 more. Multiple transactions conducted by the same sender and/or receiver
23 combination in a business day constitute a single transaction; and
- 24 c. Shall to create records that reflect the provision of updated operating policies
25 and procedures pursuant to A.R.S. § 6-1208, subsection B and of instruction
26 that promotes compliance with this chapter, Title 13, Chapter 23 and 31

1 United States Code section 5318, including the identification of the provider
2 and the material and instruction that were provided.

3 2. IPP of America, Inc. and Mr. Averett shall immediately pay to the Department a civil
4 money penalty in the amount of **seven thousand, five hundred dollars (\$7,500.00)**. Respondents
5 are jointly and severally liable for payment of the civil money penalty.

6 3. Respondents shall pay to the Department the examination fee of **four thousand, four**
7 **hundred twenty dollars (\$4,420.00)** within thirty (30) days of the date of this Order.

8 4. Respondents shall amend all current contracts to include, as an appendix, a current
9 copy of A.R.S. Title 6, Chapter 12: during the previous examination, IPP was found to have not
10 included, as an appendix to its authorized delegate contracts, a current copy of the statutes.
11 Respondents corrected this violation in subsequent contracts and did provide all of its authorized
12 delegates a copy of the statutes. However, the previous contracts (2008 and earlier) do not include
13 wording to include the copy of the statutes as an appendix. The contracts specifically restrict the
14 amending of the contract, which would include the adding of an appendix, without following a
15 prescribed procedure.

16 5. Respondents shall further institute policies and procedures to ensure that customer
17 identification information is being accurately and completely recorded, as well as identify and
18 correct violations to IPP's policies and procedures. Respondents must provide training to its
19 employees to correct this issue and to improve compliance.

20 6. Respondents shall institute procedures to identify and correct errors and omissions on
21 its record keeping forms at the time of the transaction.

22 7. Respondents shall conduct training to promote compliance with Title 6, Chapter 12,
23 Title 13, Chapter 23 and 31 United States Code section 5318, including the identification of the
24 provider and the material and instructions that were provided.

25 8. Respondents shall provide training to their employees and agents to ensure
26 compliance with IPP's Payment Center Policies and Procedures.

1 9. Respondents shall institute procedures to ensure that the reported authorized delegate
2 locations are accurate. Respondents must review its current list of authorized delegates to correct
3 errors. During a review of Respondents' current authorized delegate listings, it was found that three
4 locations are each listed twice: 10625 N. 19th Ave., 3122 W. Indian School Rd., and 2102 W. Peoria.
5 It is important that locations of the active authorized delegates be reported accurately. The
6 authorized delegate number and notice issued by the Department is location-based. It is the
7 "location" that is authorized and not the owner. If an authorized delegate is moving locations, it is to
8 be treated as a "termination" at the old location and an "add" at the new location. As long as the
9 location and business name remains the same, do not report changes in authorized delegate
10 ownership to the Department.

11 10. Respondents shall submit a list of added and terminated authorized delegates only on
12 the required quarterly reports, not a list of all current authorized delegates.

13 11. Respondents shall ensure that their payment instruments (transaction receipts) contain
14 the full name of the Company, and not just "powered by IPP."

15 12. Respondents shall review the instructions for properly completing the narrative
16 portion (part VI) of the Suspicious Activity Report (FinCEN Form 109). Respondents should ensure
17 that the narrative contains all of the information requested in the instructions.

18 13. Respondents shall institute or revise existing policies and procedures to prevent
19 repeating the violations cited in this Report of Examination.

20 14. Mr. Averett shall comply with all Arizona statutes and rules regulating Arizona money
21 transmitters, A.R.S. §§ 6-1201, *et seq.*

22 15. The provisions of this Order shall be binding upon Respondents, their employees,
23 agents, and other persons participating in the conduct of the affairs of Respondents.

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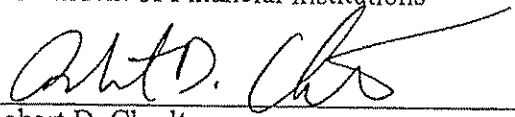
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1 16. This Order shall become effective upon service, and shall remain effective and
2 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
3 or set aside.

4 SO ORDERED this 1st day of July, 2010.

5 Lauren W. Kingry
6 Superintendent of Financial Institutions

7 By: 
8 Robert D. Charlton
9 Assistant Superintendent of Financial Institutions

10 CONSENT TO ENTRY OF ORDER

11 1. Respondents acknowledge that they have been served with a copy of the foregoing
12 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
13 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

14 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of
15 the foregoing Findings of Fact, Conclusions of Law, and Order.

16 3. Respondents state that no promise of any kind or nature has been made to induce
17 them to consent to the entry of this Order, and that they have done so voluntarily.

18 4. Respondents agree to immediately cease from engaging in the violative conduct set
19 forth in the Findings of Fact and Conclusions of Law.

20 5. Respondents acknowledge that the acceptance of this Agreement by the
21 Superintendent is solely to settle this matter and does not preclude this Department, any other agency,
22 or officer of this state or subdivision thereof from instituting other proceedings as may be
23 appropriate now or in the future.

24 6. Mr. Averett, on behalf of IPP of America, Inc., and himself, represents that he is the
25 President, and that, as such, has been authorized by IPP to consent to the entry of this Order on its
26 behalf.

7. Respondents waive all rights to seek judicial review or otherwise to challenge or contest the validity of this Cease and Desist Order.

DATED this 22nd day of July, 2010.

By:

Ronald Averett, President
IPP of America, Inc.

ORIGINAL of the foregoing filed this 1st day of July, 2010, in the office of:

Lauren W. Kingry
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed/delivered same date to:

Erin O. Gallagher
Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Robert D. Charlton, Assistant Superintendent
Stephen Rosenthal, Examiner in Charge
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

Ronald Averett, President
IPP of America, Inc.
330 Passaic Ave., Ste. 100
Fairfield, New Jersey 07004

1 Corporation Service Company, Statutory Agent for:
2 IPP of America, Inc.
3 2338 W. Royal Palm Road
4 Phoenix, AZ 85021

5 By: *Susan Long*

6 #829111

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